REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

En Banc

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

- versus -

ACTUATE BUILDERS, INC.,
Respondent.

CTA EB NO. 2298
(CTA Case No. 9206)

Present:

DEL ROSARIO, *PJ*,
CASTAÑEDA, JR.,
UY,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO, *and*
REYES-FAJARDO, *JJ.*

Promulgated:

OCT 2 9 2021
11:26 a.m.

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DECISION

RINGPIS-LIBAN, *J.*:

Before the Court *En Banc* is a Petition for Review[1] filed by petitioner Commissioner of Internal Revenue (CIR) against respondent Actuate Builders, Inc. (ABI) seeking to set aside the assailed Decision of this Court's Second Division, dated February 12, 2020,[2] which partially granted ABI's Petition for Review and ordered the CIR to refund or to issue a tax credit certificate in the amount of ₱2,063,561.36, representing ABI's excess and unutilized input VAT attributable to zero-rated sales for the 2nd, 3rd, and 4th quarters of calendar year (CY) 2013.

The CIR likewise seeks to set aside the assailed Resolution dated June 16, 2020[3] which denied his Motion for Partial Reconsideration for lack of merit.

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[1] *Rollo*, pp. 5-18, with Annexes on pp. 19-57.
[2] *Id.*, pp. 20-45.
[3] *Id.*, pp. 47-57.

The Parties

Petitioner CIR is sued in his official capacity, having been duly appointed and empowered to perform the duties of his office, including, among others, the duty to act on and approve claims for refund or tax credit, as provided by law. He may be served with notices and other court processes at Legal Division, Revenue Region No. 8A, 2/F 313 Sen. Gil Puyat Avenue, Makati City.[4]

Respondent ABI is a corporation duly organized and existing under the laws of the Philippines, with Securities and Exchange Commission Company Reg. No. CS201015526.[5] It is also registered with the Bureau of Internal Revenue (BIR) as a VAT taxpayer, with Taxpayer Identification Number 007-883-702-000.[6]

The Facts[7]

On June 26, 2015, ABI filed an Application for Tax Credits/Refunds with the BIR, applying for refund of its alleged excess and unutilized input VAT in the amount of ₱12,251,028.97, for the 2nd to 4th quarters of the CY ending December 31, 2013.[8]

On November 23, 2015, ABI filed a Petition for Review with the CTA[9] grounded on Section 108(B)(3), in relation to Republic Act No. (RA) 7916. ABI claimed that the excess and unutilized VAT arose from transactions with entities registered with the Philippine Economic Zone Authority (PEZA) and, hence, should have been effectively subjected to zero-percent VAT rate.

After the CIR filed his Answer on January 18, 2016,[10] the Pre-Trial Conference was held on March 17, 2016.[11] ABI filed its Pre-Trial Brief on March 14, 2016,[12] while the CIR submitted his on March 11, 2016.[13]

[4] *Id.*, p. 6.
[5] CTA Case No. 9206 Docket - Vol. II, pp. 471 to 493, Exhibit "P-1".
[6] *Docket - Vol. II*, p. 495, Exhibit "P-2".
[7] As found by the Second Division and as culled from the records of the case.
[8] Docket - Vol. I, pp. 363 to 374, Exhibit "P-8".
[9] *Id.*, pp. 10 to 25.
[10] *Id.*, pp. 97 to 100.
[11] *Id.*, pp. 102 to 103; p. 143, Minutes of the hearing held on March 17, 2016.
[12] *Id.*, pp. 101 to 113.
[13] *Id.*, pp. 148 to 149.

The parties filed their Joint Stipulation of Facts and Issues (JSFI) on April 26, 2016,[14] which was approved and adopted by the Court in Division in the Pre-Trial Order dated June 1, 2016.[15] Pre-Trial was terminated thereafter.

Trial ensued and ABI presented its documentary and testimonial evidence. ABI presented the following individuals as its witnesses: (1) Ms. Ma. Corazon C. Ramos,[16] its Finance Manager; and (2) Ms. Myra Celeste Dabalos,[17] the Court-commissioned Independent Certified Public Accountant (ICPA)[18] who submitted the ICPA Report to the Court in Division on June 6, 2016.[19]

The CIR, on the other hand, filed a Manifestation[20] on February 16, 2017 stating that he would not be presenting any evidence in this case. This was noted by the Court in Division in its Resolution dated March 7, 2017.[21]

ABI filed its Memorandum on March 14, 2018.[22] The CIR failed to file his memorandum[23] and the case was submitted for decision on March 5, 2019.[24]

On February 12, 2020, the Court in Division issued the assailed Decision[25], the dispositive portion of which reads as follows:

> "**WHEREFORE,** in light of the foregoing considerations, the instant *Petition for Review* is **PARTIALLY GRANTED.** Accordingly, [R]espondent is **ORDERED TO REFUND or TO ISSUE A TAX CREDIT CERTIFICATE** in favor of [P]etitioner in the amount of **₱2,063,561.36,** representing [P]etitioner's excess and unutilized input VAT attributable to its zero-rated sales for the 2nd, 3rd and 4th quarters of CY 2013.
>
> **SO ORDERED."**

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[14] *Id.,* pp. 175 to 183.
[15] *Id.,* pp. 190 to 194.
[16] *Id.,* pp. 118 to 138, Exhibit "P-10"; pp. 172 to 174, Minutes of the hearing held on April 27, 2016.
[17] pp. 206 to 219, Exhibit "P-53"; pp. 246 to 247, Minutes of the hearing held on, and Order dated, August 3, 2016.
[18] *Id.,* p. 171, Oath of Commission dated April 27, 2016; pp. 172 to 174, Minutes of the hearing held on April 27, 2016.
[19] *Id.,* p. 200.
[20] *Id.* at Note 5, pp. 418 to 419.
[21] *Id.,* p. 426.
[22] *Id.,* pp. 454 to 470.
[23] *Id.,* p. 556, Records Verification dated February 20, 2019 issued by the Judicial Records Division of this Court.
[24] *Id.,* p. 557, Resolution dated March 5, 2019.
[25] *Id.* at Note 2.

On February 28, 2020, the CIR posted his Motion for Partial Reconsideration through registered mail which the Court in Division received on March 5, 2020. ABI responded by filing its Opposition (Re: Motion for Partial Reconsideration, dated 24 February 2020) on March 12, 2020.

On June 16, 2020, the Court in Division issued the assailed Resolution[26] which denied the CIR's Motion for Partial Reconsideration for lack of merit. The dispositive portion of the assailed Resolution reads as follows:

> "**WHEREFORE,** premises considered, [R]espondent's Motion for Partial Reconsideration is **DENIED** for lack of merit.
>
> **SO ORDERED."**

Within an extended period of time[27] granted by the Court *en banc*,[28] the CIR timely posted his Petition for Review[29] on July 22, 2020 which the CTA *en banc* received on July 29, 2020. However, the Court *en banc* noted that the Verification and Certification on Non-Forum Shopping of the Petition was not compliant with the 2019 Amendments to the 1997 Rules of Civil Procedure and the CIR was directed to submit a compliant Verification and Certification of Non-Forum Shopping in the Resolution dated September 8, 2020.[30]

The CIR posted his Compliance on September 30, 2020[31] which the Court *en banc* noted in the Resolution dated October 27, 2020.[32] In that same Resolution, ABI was ordered to file its Comment to the Petition.[33]

On November 16, 2020, ABI filed its Comment (Re: Petition for Review, dated 20 July 2020).[34]

In a Resolution dated November 24, 2020, ABI's Comment (Re: Petition for Review, dated 20 July 2020) was noted and the case was submitted for decision.[35]

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[26] *Id.* at Note 3.
[27] *Id.* at Note 1, pp. 1-3.
[28] *Id.*, p. 59.
[29] *Id.* at Note 1.
[30] *Id.*, pp. 61-62.
[31] *Id.*, pp. 63-66
[32] *Id.*, pp. 69-70.
[33] *Id.*
[34] *Id.*, pp. 71-80.
[35] *Id.*, pp. 82-83.

The Assignment of Errors

Petitioner CIR failed to indicate any assignment of errors pertaining to the assailed Decision and Resolution in his Petition for Review.

The Arguments of the Parties

The CIR argues that since the Court in Division ruled that a certain amount representing ABI's sale of services did not qualify for zero-rating, the same should be subjected to 12% VAT and the amount of ABI's liability should be deducted from the refunded amount. He cites *Air Canada v. Commissioner of Internal Revenue*[36] in arguing that the determination of the proper category of tax that should have been paid is incidental and necessary to resolve the issue of whether a refund should be granted. Moreover, the corresponding output VAT liability representing ABI's sale of services which do not qualify for zero-rating must be determined to know if there are excess and unutilized input taxes that are available for refund.

The CIR also argues that ABI fell short of the invoicing requirements under Section 113 of the National Internal Revenue Code of 1997[37] (NIRC), as amended because a) the VAT was not separately indicated in the supporting VAT official receipts/sales invoices; b) some of ABI's invoices/receipts used to support ABI's input taxes do not indicate the quantity, unit cost, and description of the goods or properties or nature of the services; and c) some official receipts/sales invoices did not indicate the TIN and address of ABI.

Lastly, the CIR claims that ABI's exhibits are bereft of probative value for being hearsay evidence. He argues that documentary exhibits that are not commercial documents or papers must be testified to and identified by persons who had a hand in the preparation of the documents which ABI did not do.

On the other hand, ABI points out that the CIR's Petition did not contain a concise statement of facts and issues involved to sufficiently enable the Court to intelligently decide the Petition. The *Air Canada* case also does not apply to the case at bar.

As regards the other allegations of the CIR, he failed to specify the deficient invoices and the witnesses allegedly uttering hearsay testimony. Neither did the CIR specify in what respect their testimony constitutes hearsay.

[36] G.R. No. 169507, January 11, 2016.
[37] RA 8424, as amended by RA 10963.

As for the documentary exhibits that are not commercial documents that were allegedly not testified to and identified, these refer to public documents issued by government agencies that do not require authentication.

The Ruling of the Court

The CIR's arguments fail to persuade.

A Petition for Review Insufficient in Form is Dismissible

Section 3, Rule 1 of Revised Rules of the CTA[38] (RRCTA) provides that the Rules of Court shall apply suppletorily to the RRCTA. Section 4(b), Rule 8 of the RRCTA on "Procedure in Civil Cases" states that "[a]n appeal from a decision or resolution of the Court in Division on a motion for reconsideration or new trial shall be taken to the Court by petition for review as provided in Rule 43 of the Rules of Court."

Section 2, Rule 6 of the RRCTA also states that "[t]he petition for review shall contain allegations showing the jurisdiction of the Court, **a concise statement of the complete facts and a summary statement of the issues involved in the case**, as well as the reasons relied upon for the review of the challenged decision."

Section 6(b) of Rule 43 of the Revised Rules of Court[39], in turn, states that the Petition should "contain a concise statement of the facts and issues involved and the grounds relied upon for the review". Section 7 of the same rule[40] states that failure to comply with the foregoing requirement shall render the Petition dismissible.

[38] A.M. No. 05-11-07-CTA. RULE 1, SEC. 3. *Applicability of the Rules of Court.* - The Rules of Court in the Philippines shall apply suppletorily to these Rules.
[39] Rules of Court, Rule 43, **Section 6.** *Contents of the petition.* — The petition for review shall (a) state the full names of the parties to the case, without impleading the court or agencies either as petitioners or respondents; (b) contain a concise statement of the facts and issues involved and the grounds relied upon for the review; (c) be accompanied by a clearly legible duplicate original or a certified true copy of the award, judgment, final order or resolution appealed from, together with certified true copies of such material portions of the record referred to therein and other supporting papers; and (d) contain a sworn certification against forum shopping as provided in the last paragraph of section 2, Rule 42. The petition shall state the specific material dates showing that it was filed within the period fixed herein.
[40] Revised Rules of Court, Rule 43, Section 7. *Effect of failure to comply with requirements.* — The failure of the petitioner to comply with any of the foregoing requirements regarding the payment of the docket and other lawful fees, the deposit for costs, proof of service of the petition, and the contents of and the documents which should accompany the petition shall be sufficient ground for the dismissal thereof.

A cursory examination of the Petition immediately shows that neither does it contain a statement of facts nor an assignment of errors attributed to the assailed Decision and Resolution. This, in itself, renders the Petition dismissible in accordance with Section 7 of the Revised Rules of Court.

As correctly observed by ABI, the requirement exists to inform the Court about the factual and legal questions relevant to the resolution of the appeal. However, in the interest of justice and in order to lay the matter to rest, the Court shall nonetheless discuss the merits of the arguments raised by the CIR.

The Doctrine in the *Air Canada* and *SMI-ED* Cases is Inapplicable

The CIR argues that the Court in Division ought to have determined the corresponding output VAT liability representing ABI's sale of services which do not qualify for zero-rating to determine if there are excess or unutilized input taxes that are available for refund. Citing the *Air Canada* case[41] and *SMI-ED Philippines Technology, Inc. vs. Commissioner of Internal Revenue*[42], the CIR contends that if the taxpayer is found liable for taxes other than the erroneously paid final tax, the amount of the taxpayer's liability should be computed and deducted from the refunded amount.

The argument is specious. It presupposes that the Court in Division discovered certain tax liabilities ABI failed to pay and then did not offset the same against the awarded refund. However, the assailed Decision does not show that such a finding was made. Neither does the CIR allege or identify what tax liability he believes to be due and unpaid that should be deducted from the awarded refund.

On one hand, the Court *en banc* fully agrees with the *Air Canada* and *SMI-ED* which held that "[i]n an action for the refund of taxes allegedly erroneously paid, the Court of Tax Appeals may determine whether there are taxes that should have been paid in lieu of the taxes paid" and that "[d]etermining the proper category of tax that should have been paid is not an assessment" but is "incidental to determining whether there should be a refund."

[41] *Id.* at Note 36.
[42] G.R. No. 175410, November 12, 2014.

On the other hand, sound as the doctrine may be, the facts obtaining in the *Air Canada* and *SMI-ED* cases are not on all fours with the case at bar. The CIR also failed to demonstrate in the Petition how the cited cases apply to support his argument.

The Court in *Air Canada* case involved an international airline seeking a refund of taxes paid on its gross Philippine billings under Section 28(A)(3)(a) of the NIRC. The airline claimed that since it had no flights "originating from the Philippines in a continuous and uninterrupted flight," it was not subject to the gross billings tax.

The *Air Canada* Court upheld the CTA's Decision which found that while Air Canada was not liable for tax on its gross Philippine billings under Section 28(A)(3), it was nevertheless liable to pay the 32% corporate income tax on income derived from the sale of airline tickets within the Philippines pursuant to Section 28(A)(1) since the airline was doing business in the Philippines through a general sales agent. However, the Court added that by reason of the Republic of the Philippines-Canada Tax Treaty, the benefit of a lower tax equivalent to 1½% on business profits derived from sale of international air transportation should be extended to the airline.

The *SMI-ED* case, on the other hand, involved a PEZA-registered entity that never commenced operations and, subsequently, sold off its assets. It sought a refund of the 5% preferential tax it paid under RA 7916[43], saying that the payment would have been proper only if it had operated commercially. The *SMI-ED* Court agreed; but it also held that *SMI-ED's* disposition of its assets resulted in a capital gains tax liability which should be offset against the refund.

The *Air Canada* and *SMI-ED* cases both involved meritorious refunds offset against other tax liabilities. Applying both cases to the instant case would presuppose that ABI was found to be entitled to a refund of one tax but also liable for another kind of tax in a different category. However, in this particular case, the facts show that there is no question or issue that the transactions subject of the refund sought were subject to VAT and not any other kind of tax. The question relevant to the refund claims is what **rate of VAT** should be applied. As the CIR states in his Petition, "[u]nder the VAT Law, sale of goods or services is subject to either (1) 12% VAT; (2) VAT-exempt; and (3) zero-percent (0%)." Neither has the CIR or ABI claimed that the subject transactions are VAT-exempt, so they are either subject to 12% VAT or zero-rated.

[43] REPUBLIC ACT NO. 7916, "An Act Providing for the Legal Framework and Mechanisms for the Creation, Operation, Administration, and Coordination of Special Economic Zones in the Philippines, Creating for this Purpose, the Philippine Economic Zone Authority (PEZA), and for Other Purposes."

The assailed Decision shows that the Court in Division already performed the exercise of disallowing several aspects of the claim by indicating that certain transactions were not qualified for zero-rating. Corollarily, it follows that if those transactions were not qualified for zero-rating and they were also not VAT-exempt, then they would be subject to 12% VAT which, in this case, ABI had already paid, hence, the refund claim. The finding that it is not qualified for zero-rating means simply that the payment was proper and no refund of it can be obtained. To offset the amount of disallowed zero-rated transactions against the tax held refundable would result in an absurd, not to mention inequitable, situation wherein ABI would essentially have paid that amount twice -- first, when the tax was actually paid, and second, when the value not refunded was further used to offset a refundable tax.

Given the facts of the case, clearly, the *Air Canada* and *SMI-ED* doctrine cannot apply.

General Averments of Errors

The next two arguments of the CIR shall be discussed together.

First, the CIR claims that ABI fell short of the invoicing requirements under Section 113 of the NIRC, as amended by RA 9337.[44] The CIR claims that aside from the portion of ABI's input VAT claim disallowed by the Court, another portion must be further disallowed because in some of the official receipts/invoices supporting the claimed input taxes: a) the VAT was not separately indicated; b) the quantity, unit cost and description of the goods or properties or the nature of the service were not indicated; and c) the TIN and address of ABI was not indicated thereon.

Second, the CIR claims that ABI's exhibits should not have been given probative value for being hearsay evidence since documentary exhibits that are not commercial documents or papers must be testified and identified by persons who had a hand in the preparation of the said documents.

However, as ABI has pointed out, the CIR failed to specify the deficient invoices alleged in the Petition to enable the Court to consider the argument and likewise failed to identify the witness/es allegedly uttering the hearsay testimony or to specify in what respect their testimony constitutes hearsay.

[44] Otherwise known as the Value Added Tax Reform Law.

This ties in with the previous observation of the Court that the CIR's Petition failed to specify the assignments of errors that he attributes to the assailed Decision and Resolution.

Section 8, Rule 51 of the 1997 Rules of Civil Procedure provides:

> "Sec. 8. *Questions that may be decided.* -- No error which does not affect the jurisdiction over the subject matter or the validity of the judgment appealed from or the proceedings therein **will be considered unless stated in the assignment of errors**, or closely related to or dependent on an assigned error **and properly argued in the brief**, save as the court pass upon plain errors and clerical errors." *(Emphasis supplied)*

In *De Liano vs. Court of Appeals*[45], the Supreme Court emphasized the importance of the assignment of errors in an appellant's brief, thus:

> "An assignment of errors in appellate procedure is **an enumeration by appellant or plaintiff of the errors alleged to have been committed by the court below in the trial of the case upon which he seeks to obtain a reversal of the judgment or decree**; it is in the nature of a pleading, and performs in the appellate court the same office as a declaration or complaint in a court of original jurisdiction. Such an assignment is appellant's complaint, or pleading, in the appellate court, and takes the place of a declaration or bill; **an appeal without an assignment of errors would be similar to a suit without a complaint, bill, or declaration**. The assignment is appellant's declaration or complaint against the trial judge, charging harmful error, and proof vel non of assignment is within the record on appeal.
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> xxx xxx xxx
>
> **The object of such pleadings is to point out the specific errors claimed to have been committed by the court below, in order to enable the reviewing court and the opposing party to see on what points appellant or plaintiff in error intends to ask a reversal of the judgment or decree, and to limit discussion to those points**. The office of an assignment of errors is not to point out legal contentions, but only to inform

[45] G.R. No. 142316, November 22, 2001.

> the appellate court that appellant assigns as erroneous certain named rulings; the function of the assignment is to group and bring forward such of the exceptions previously noted in the case on appeal as appellant desires to preserve and present to the appellant.[46]" *(Emphasis supplied)*

The importance of specifying an "assignment of errors" in the appellant's Petition cannot be underestimated. The appellant has to specify in what aspect of the law or the facts that the trial court erred. There is long standing precedent that a general assignment of errors is unacceptable under the rules. In fact, a statement of the following tenor: that "the Court of First Instance of this City incurred error in rendering the judgment appealed from, for it is contrary to law and the weight of the evidence," was deemed insufficient.[47] An appellant, therefore, must carefully formulate his assignment of errors.

As observed by the Court *en banc* above, not only does the CIR's Petition not have a section on his "assignment of errors" or even issues, for that matter, but also, the arguments proffered by the CIR on the non-compliant invoices and the hearsay testimony, without any specificity as to which non-compliant invoices/receipts are being referred to or whose/which hearsay testimony the Court in Division erred in considering when partially granting the claim are general assertions that are simply unacceptable.

These general assertions are in stark contrast to the comprehensive and exhaustive discussion of the Court in Division in the 46-page assailed Decision which scrutinized in detail ABI's evidence consisting of numerous exhibits presented during trial.

Public Documents Issued by Government Agencies

In his last argument in a bid to reverse the assailed Decision and Resolution, the CIR claims that documentary exhibits that are not commercial documents or papers must be testified to and identified by persons who had a hand in the preparation of said documents. He then specifies some of the contentious documents, as follows: a) ABI's Certificate of Incorporation and of Filing of Amended Articles of Incorporation;[48] b) PEZA Certificate of Registration of Diversified Technology Solutions International, Inc.;[49] c)

[46] *Id.* citing 5 C.J.S. Appeal and Error § 1217.
[47] *Santiago v. Felix*, 24 Phil. 378, 384 (1913).
[48] Exhibit "P-1".
[49] Exhibit "P-7".

Certification issued by the Department of Finance (DOF);[50] d) PEZA Certificate No. 2013-0457 Updated Issues Nos. 0030 & 0039;[51] and includes another general allegation of "other documentary exhibits that are not commercial documents or papers".

The CIR's argument must fail.

The Revised Rules of Court on authentication and proof of documents, specifically in Section 19(a), Rule 132 thereof, provides:

> "Sec. 19. *Classes of documents.* - For the purpose of their presentation in evidence, documents are either public or private.
>
> Public documents are:
>
> (a) The written official acts, or records of the sovereign authority, official bodies and tribunals, and public officers, whether of the Philippines, or of a foreign country; x x x
>
> x x x x x x x x x
>
> All other writings are private."

Section 24 of Rule 132, on the other hand, states:

> "SECTION 24. *Proof of official record.* — The record of public documents referred to in paragraph (a) of Section 19, when admissible for any purpose, may be evidenced by an official publication thereof or by a copy attested by the officer having the legal custody of the record, or by his or her deputy, and accompanied, if the record is not kept in the Philippines, with a certificate that such officer has the custody. x x x"

Appreciated in conjunction with Section 23 of the same rule which states that "[a]ll other public documents are evidence, even against a third person, of the fact which gave rise to their execution and of the date of the latter"[52], the

[50] Exhibit "P-9".
[51] Exhibits "P-51" and "P-52".
[52] Rule 132, SECTION 23. Public documents as evidence. — Documents consisting of entries in public records made in the performance of a duty by a public officer are prima facie evidence of the facts therein

Court in Division did not err in giving probative value to the questioned documents presented by ABI.

The specific documents that the CIR contests the admissibility of are public documents. The Certificate of Incorporation and Filing of Amended Articles of Incorporation is issued by the Securities and Exchange Commission (SEC), pursuant to its powers under the Revised Corporation Code, RA 11232, to wit:

> "**Section 13.** *Contents of the Articles of Incorporation.* - All corporations shall file with the Commission articles of incorporation in any of the official languages, duly signed and acknowledged or authenticated, in such form and manner as may be allowed by the Commission x x x[53]
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> x x x x x x x x x
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> "**Section 18.** *Registration, Incorporation and Commencement of Corporation Existence.* - A person or group of persons desiring to incorporate shall submit the intended corporate name to the Commission for verification. If the Commission finds that the name is distinguishable from a name already reserved or registered for the use of another corporation, not protected by law and is not contrary to law, rules and regulation, the name shall be reserved in favor of the incorporators. The incorporators shall then submit their articles of incorporation and bylaws to the Commission.
>
> **If the Commission finds that the submitted documents and information are fully compliant with the requirements of this Code, other relevant laws, rules and regulations, the Commission shall issue the certificate of incorporation.**
>
> A private corporation organized under this Code commences its corporate existence and juridical personality from the date the Commission issues the certificate of incorporation under its official seal thereupon the incorporators, stockholders/members and their successors shall constitute a

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stated. All other public documents are evidence, even against a third person, of the fact which gave rise to their execution and of the date of the latter.

[53] Revised Corporation Code of the Philippines, RA No. 11232.

> body corporate under the name stated in the articles of incorporation for the period of time mentioned therein, unless said period is extended or the corporation is sooner dissolved in accordance with law.[54]" *(Emphasis supplied)*

The PEZA certificates, on the other hand, are issued by the Philippine Economic Zone Authority, a body created by "The Special Economic Zone Act of 1995"[55]. Under Section 13(b) thereof, it has the power to "x x x register, regulate and supervise the enterprises in the ECOZONE in an efficient and decentralized manner x x x".[56] Hence, the PEZA Certificate of Registration and the other PEZA certificates in question are public documents.

The DOF Certificate issued by the Department of Finance purports to state that ABI has no "similar, previous and/or outstanding application for tax credit and duty drawback" under the NIRC, the Omnibus Investment Code or the Tariff and Customs Code of the Philippines (TCCP).

The NIRC is implemented by the BIR "under the control and supervision of the" DOF[57] while the TCCP is implemented by the Bureau of Customs, a bureau also under the supervision of the DOF.[58] Tax credits issued under the Omnibus Investments Code are certified by the Secretary of Finance.[59] The DOF Certificate is likewise a public document.

Given that the documents being questioned by the CIR are public documents, "[t]he officers who issued these certifications need not be presented in court to testify on them. Their trustworthiness arises from the

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[54] *Id.*

[55] RA 7916, "AN ACT PROVIDING FOR THE LEGAL FRAMEWORK AND MECHANISMS FOR THE CREATION, OPERATON, ADMINISTRATION, AND COORDINATION OF SPECIAL ECONOMIC ZONES IN THE PHILIPPINES, CREATING FOR THIS PURPOSE, THE PHILIPPINE ECONOMIC ZONE AUTHORITY (PEZA), AND FOR OTHER PURPOSES", as amended by RA 8748.

[56] RA 7916, Section 13(b).

[57] *Id.* at Note 37, SEC. 2. *Powers and Duties of the Bureau of Internal Revenue*. - The Bureau of Internal Revenue shall be under the supervision and control of the Department of Finance and its powers and duties shall comprehend the assessment and collection of all national internal revenue taxes, fees, and charges, and the enforcement of all forfeitures, penalties, and fines connected therewith, including the execution of judgments in all cases decided in its favor by the Court of Tax Appeals and the ordinary courts. The Bureau shall give effect to and administer the supervisory and police powers conferred to it by this Code or other laws.

[58] Public Act No. 430 transformed the Philippine Customs Service to a Bureau of Customs and Immigration under the supervision and control of the Department of Finance and Justice. When the Department of Justice became a separate office from the Department of Finance, the Customs Service remained under the umbrella of the latter which set-up remains up to the present time.

[59] EXECUTIVE ORDER NO. 226, THE OMNIBUS INVESTMENTS CODE OF 1987, ARTICLE 21. "Tax credit" shall mean any of the credits against taxes and/or duties equal to those actually paid or would have been paid to evidence which tax credit certificate shall be issued by the Secretary of Finance or his representative, or the Board, if so delegated by the Secretary of Finance.

sense of official duty and the penalty attached to a breached duty, in the routine and disinterested origin of such statement and in the publicity of the record."[60]

The foregoing discussion shows that a reversal or modification of the assailed Decision and Resolution is unwarranted and that the Court in Division's findings of fact is indeed supported by substantial evidence which binds the Court *en banc.*

WHEREFORE, premises considered, the Petition for Review is **DENIED**. The assailed Decision dated February 12, 2020 and the Resolution dated June 16, 2020 of the Second Division in CTA Case No. 9206 is **AFFIRMED.**

SO ORDERED.

Ma. Belen M. Ringpis-Liban

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

[60] *Lejano v. People*, G.R. No. 176389, 14 December 2010, citing *Antilon v. Barcelona*, 37 Phil. 148 (1917).

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

CERTIFICATION

Pursuant to Section 13 of Article VIII of the Constitution, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

ROMAN G. DEL ROSARIO
Presiding Justice